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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,710	12/02/2003	Teruaki Itoh	160-401	2219
23117	7590	11/29/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			KUMAR, RAKESH	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/724,710

Applicant(s)

ITO, TERUAKI

Examiner

Rakesh Kumar

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amendment filed 09/18/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/08/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **Final Rejection**

The drawings were received on 09/18/2006. These drawings are acceptable.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuyama et al. (U.S. Patent 6,138,868) in view of Portyansky (U.S. Patent Number 4,567,997).
2. Referring to claim 1. Yuyama discloses a feeding apparatus (Figure 1) to dispense tapered ampule vials (tip) comprising: a tip (A) storing box (1; Figure 1) whose bottom is slanted (slanted surface 1a) and has a tip collecting section (lower portion of 1a near member 6) in a lowermost part thereof to collect a plurality of dispensing tips (A), each of the tips (A; Figure 6A) having a larger diameter section (bottom of tip) and a small diameter section (top of tip), the small diameter section capable of being inserted into an opening (5x) of the large diameter, and the tip storing box(1) including an outlet (5x) positioned higher than the tip collecting section (lower portion of 1a near member 6);

a tip individually-sending mechanism (2) configured to lift up the dispensing tips (A), from the tip collecting section (lower portion of 1a near member 6) to the outlet (5x); an outlet (5x) formed to discharge the dispensing tips (A), which are lifted up by the tip individually-sending mechanism (2), from the tip storing box (1); and a tip carry-out mechanism (3; Figure 3) including a carry-out conveyor (26) to carry the dispensing tips (A) and a tip stopping piece (slanted top portion of member 5, see Figure 5) which is projected-upwards to prevent the tips from rolling back into the holding storing box.

Yuyama does not disclose a door "turnably" supported to selectively release the tips to a conveyor and further wherein the tip holding section of the door mechanism includes a V-shaped groove.

Portyansky discloses a stick delivery mechanism (Figure 1) comprising; a door mechanism (42; Figure 4) including a door which is turnably ("pivotally"; Col. 2 line 20) supported at a bottom end thereof to close the outlet (30) of the tip storing box (inside hopper) from outside (see Figure 4) and a tip holding section (44) which is provided on an inside of the door to horizontally hold the diameter section one of the dispensing tips (28), which are dropped from the tip holding section (44) when the door opens (42, pivots), out of the tip storing box (hopper) through the outlet (30), wherein the tip holding section of the door mechanism (42) includes a C-shaped groove (44) which is formed in the door (42) to have a size to hold the diameter section (diameter of the tip) of one of the dispensing tips (28).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Yuyama to include a means of holding tips in a groove disposed on the interior side of the door prior to selectively releasing the tip to a delivery conveyor by pivoting open the door mechanism as disclosed by the teaching of Portyansky because jamming of tips could be minimized as the tips are released to the conveyor mechanism.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings Yuyama in view of Portyansky and include V-shaped holding section groove in the interior door, instead of a C-shaped groove as disclosed by Portyansky, and such a selection would be well within the level of skill of an artisan.

It would have been further obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Yuyama in view of Portyansky to include dispensing tips comprising a configuration wherein the length of the small diameter section is larger than a length of the large diameter section because such a selection would be well within the skill of the artisan.

3. Regarding claim 2, Yuyama discloses the apparatus wherein the tip individually sending mechanism (2) includes a lifting plate which is driven up and down (see Figure 1) by a drive source, and the lifting plate (2) has a top end face (7) having a space enough (see width of plate as compared to diameter of member A) to place only one

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dispensing tip and a tapered surface (7) that descends toward an outside of the tip storing box (1).

4. Regarding claims 3 and 4, Yuyama includes all the claimed features but does not include a stopper disposed in the tip storing box. However, Portyansky discloses a stopper (34; Figure 4 and 5) on the tapered surface (16) of the bottom, and the stopper (34) appropriately limits the number of dispensing tips (28) that slide on the tapered surface (16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Yuyama and include a stopper positioned on the tapered bottom surface of the tip storing box as taught by Portyansky because it would prevent jamming and allow tips to be carried by the individually sending mechanism (2) in each stroke, whereas an uncontrolled pile of tips can dismount the tips positioned on the movable platform thus, reducing efficiency of the apparatus.

### **Response to Arguments**

Applicant's arguments filed 09/18/2006 have been fully considered but they are not persuasive. See rejections above.

The applicant argues "neither Yuyama nor Portyansky endeavors to supply randomly inserted dispensing tips one by one to a position for use without overlapping the tips." The applicant's attention is directed to Figure 2 (Yuyama) wherein randomly oriented tips are positioned one by one to a position for use (Figure 3, 5), in regards to overlapping Figure 2 also shows tips (A) as being positioned in an overlapping position (see tips positioned against member 5 near member 17 wherein one tip is overlapping the other).

In regards to the Applicant's statement "Yuyama does not disclose a door turnably supported." The Office Action states Yuyama does not teach of a turnably supported door however in view of Portyansky and the limitations as recited in the applicant's claim are taught in the teaching of Yuyama in view of Portyansky. See rejection above. Further, in regards to the particular configuration of the tips, it is in the view of the Office such that any basic variation of the size and the lengths of particular sections of the tips would not in any way change the configuration of the apparatus as taught by Yuyama in view of Portyansky from functioning as disclosed in the teachings.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., overlapping of the tips) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In regards to the Applicants argument's "Portyansky also does not teach a door mechanism including a tip holding section that is provided on an inside of the door." The Applicant is directed to Figure 1 (Portyansky) wherein Portyansky teaches of a door mechanism (42) including a tip holding section (44) which is provided on an inside surface of the door (42) in addition, the groove is configured to be of a "C" shape to hold the tip within the confines of the groove. As stated above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Yuyama in view of Portyansky to include a "V" shaped groove in the inside of the door mechanism.

### ***Conclusion***

Examiner has maintained the prior art rejections, as previously stated and as modified above.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

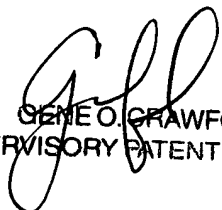
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

<http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RK  
November 24, 2006

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER